

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RUSSELL L. SILICATO, individually, and)	
KATHERINE L. SILICATO, individually,)	C.A. NO.
)	
<i>Plaintiffs,</i>)	
vs.)	
)	
TIMOTHY RYAN RICHARDSON,)	
individually, and)	
CHARLES A KLEIN & SONS INC,)	
a Foreign Corporation,)	
)	
<i>Defendants.</i>)	

COMPLAINT

Plaintiffs, Russell L. Silicato and Katherine L. Silicato, through their counsel, David P. Cline, Esquire and Steven J. Stirparo, Esquire, say by way of Complaint that:

JURISDICTION

I. JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP

1. Jurisdiction is based on diversity of citizenship and the amount in controversy exceeds Seventy Five Thousand Dollars (\$75,000), exclusive of interest and costs.
2. Jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332.

VENUE

3. Venue lies under 28 U.S.C. Section 1391.

PARTIES

4. Plaintiff, Russell L. Silicato, is and was at all times pertinent hereto a resident of the state of Delaware, residing at 3080 Wrangle Hill Road, Bear, Delaware 19701.

5. Plaintiff, Katherine L. Silicato, is and was at all times pertinent hereto a resident of the state of Delaware, residing at 3080 Wrangle Hill Road, Bear, Delaware 19701, and is the wife of plaintiff, Russell L. Silicato.

6. Defendant, Timothy Ryan Richardson, an individual, upon information and belief, is believed at all times pertinent hereto, a resident of the state of Maryland, residing at 8226 Shira Drive, Berlin, Maryland 21811.

7. Defendant, Charles A Klein & Sons Inc., a Foreign Corporation, upon information and belief, is believed to be at all times pertinent hereto, a Foreign Corporation of the state of Maryland, with its principal place of business located at 5220 Klee Mill Road, Sykesville, Maryland 21784.

8. At all times pertinent hereto, defendant Timothy Ryan Richardson was acting within the course and scope of his employment with defendant Charles A Klein & Sons Inc. Therefore, defendant Charles A Klein & Sons Inc is responsible for the reckless, wanton and/or negligent actions and/or inactions of defendant Timothy Ryan Richardson as an agent, employee and/or servant under the doctrine of *Respondeat Superior* and the law of agency as the principal, employer or master.

COUNT I

9. Plaintiffs hereby incorporate paragraphs 1 through 8 as if fully set forth herein.

10. On September 17, 2005, at approximately 11:50 a.m., plaintiff, Russell L. Silicato, was operating his motorcycle traveling in a southerly direction on Race Track Road, with his wife Katherine L. Silicato as his passenger.

11. At the same time and place, defendant, Timothy Ryan Richardson, was operating a vehicle owned by Charles A Klein & Sons Inc, traveling in a northerly direction on Race Track

Road and operated such vehicle in a negligent, careless and/or reckless manner, by failing to yield to oncoming traffic while attempting to make a left hand turn, causing his vehicle to violently collide into plaintiff, Russell L. Silicato's motorcycle.

12. This incident was the result of the negligence, carelessness, and /or recklessness of the defendant, Timothy Ryan Richardson, and was not caused in any manner whatsoever by the act or failure to act on the part of the plaintiffs.

13. The aforesaid collision and plaintiff Russell L. Silicato's resulting injuries and damages were proximately caused by the recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson in that he:

- a. failed to maintain a proper lookout while operating the vehicle he was driving;
- b. failed to give full time and attention to the operation of the vehicle he was driving;
- c. operated the vehicle he was driving in a careless and imprudent manner, without due regard for traffic conditions then existing;
- d. failed to exercise and maintain proper control over the vehicle he was driving;
- e. failed to give full time and attention to the operation of his motor vehicle; and
- f. violated the common-law duty of lookout.

14. As a direct and proximate result of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato suffered severe bodily injuries including, but not limited to, injuries to his neck, upper back, shoulders, ribs, right thumb, right hip, right foot and right arm. Some or all of his injuries have continued since the collision and are permanent in nature.

15. As a further consequence of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato has incurred, and will continue to incur in the future, medical and related expenses for his care and treatment.

16. As a further consequence of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato has incurred in the past and will incur in the future, pain, suffering, discomfort and mental anguish.

17. As a direct and proximate result of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato has sustained in the past and may sustain in the future a loss of earnings and/or earning capacity.

18. As a further direct and proximate result of the recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato suffered the loss of consortium and companionship of her husband, Russell L. Silicato, as a result of his injuries.

COUNT II

19. Plaintiffs hereby incorporate paragraphs 1 through 18 as if fully set forth herein.

20. As a direct and proximate result of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato suffered severe bodily injuries including, but not limited to, injuries to her right knee. Some or all of her injuries have continued since the collision and are permanent in nature.

21. As a further consequence of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato has incurred, and will continue to incur in the future, medical and related expenses for her care and treatment.

22. As a further consequence of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato has incurred in the past and will incur in the future, pain, suffering, discomfort and mental anguish.

23. As a direct and proximate result of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato has sustained in the past and may sustain in the future a loss of earnings and/or earning capacity.

24. As a further direct and proximate result of the recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato suffered the loss of consortium and companionship of his wife, Katherine L. Silicato, as a result of her injuries.

WHEREFORE, plaintiffs demand judgment against defendants, jointly and severally, for their special and general damages, including pain and suffering, punitive damages, attorney fees, pre and post judgment interest, the costs of this action and other such relief as the Court finds just.

DAVID P. CLINE, P/A.

BY: 

/s/ David P. Cline

David P. Cline, Esq. (#2681)

715 King Street, Suite 100

P.O. Box 33

Wilmington, DE 19899-0033

Attorney for Plaintiffs

(302) 529-7848

Dated: September 17, 2007

07-557

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS <u>Silicato, Russell & Katherine</u> <u>husband + wife, AND individually</u></p> <p>(b) County of Residence of First Listed Plaintiff <u>New Castle</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) <u>302-529-7848</u> <u>715 King St,</u> <u>Ste 101, Box 33, Wilm, DE 19899-0033</u></p>	<p>DEFENDANTS <u>Richardson, Timothy Ryan,</u> <u>Individually</u></p> <p>County of Residence of First Listed Defendant <u>Worcester</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | |
|---|--|
| <p>(For Diversity Cases Only)</p> <p>Citizen of This State <input checked="" type="checkbox"/> 1</p> <p>Citizen of Another State <input type="checkbox"/> 2</p> <p>Citizen or Subject of a Foreign Country <input type="checkbox"/> 3</p> | <p>DEF</p> <p>Incorporated or Principal Place of Business In This State <input type="checkbox"/> 1</p> <p>Incorporated and Principal Place of Business In Another State <input checked="" type="checkbox"/> 2</p> <p>Foreign Nation <input type="checkbox"/> 3</p> |
|---|--|

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Antitrust Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
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V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 1332 - DIVERSITY

Brief description of cause: PERSONAL INJURY - Auto

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 057

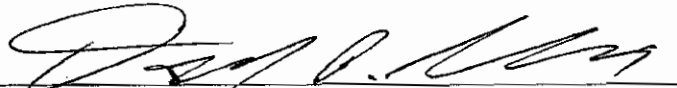
ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

17 Sept 2007

(Date forms issued)



(Signature of Party or their Representative)

David P. Cline

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action